

The Swiss Federal Office for Communications (OFCOM) treats regulatory questions of the Swiss telecoms and media sector. We are pleased to be able to participate in your request regarding information on Mobile Termination rates.

Here below you can find answers to your enquiry regarding the situation in Switzerland. The answers are also based on the telephone conference of 10 January 2005 with IRG. The numbers of the questions do refer to the presentation made by FCC.

1) Mobile Operators in Switzerland

		Market Shares
Swisscom Mobile	www.swisscom.ch	61%
Orange	www.orange.ch	18%
Sunrise	www.sunrise.ch	21%

2) Affiliation

	National	International
Swisscom Mobile	Swisscom Fixnet	
Orange		France Telecom
Sunrise		Tele Denmark

3) Rates 2000-2004 fixed to mobile termination

in CHF cents VAT
Excluded

SWISSCOM MOBILE
SUNRISE
ORANGE

2000			
Set-up	Peak	Set-up	Off-peak
7.26	45.26	4.84	30.17
7	53.5	4.56	35.9
7.26	45.26	4.84	30.17

SWISSCOM MOBILE
SUNRISE
ORANGE

2001			
Set-up	Peak	Set-up	Off-peak
6.37	39.83	4.25	26.55
7	53.5	4.56	35.9
6.95	43.32	4.63	28.8

SWISSCOM MOBILE
SUNRISE
ORANGE

2002			
Set-up	Peak	Set-up	Off-peak
0	33.5	0	33.5
0	36.85	0	36.85
0	36.95	0	36.95

SWISSCOM MOBILE
SUNRISE

2003			
Set-up	Peak	Set-up	Off-peak
0	33.5	0	33.5
0	36.85	0	36.85

ORANGE	0	36.95	0	36.95
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	2004			
	Set-up	Peak	Set-up	Off-peak
SWISSCOM MOBILE	0	33.5	0	33.5
SUNRISE	0	36.85	0	36.85
ORANGE	0	36.95	0	36.95

- 4) Article 11 of the Swiss telecoms act imposes obligations on dominant carriers to offer interconnection services (such as Mobile termination) based on cost orientation and in a non discriminatory and transparent manner. Therefore, the existence of preferential customers regarding Fixed to Mobile termination rates at a wholesale level (interconnection) would be illegal.
- 5) Switzerland is not part of the EU, has a different regulatory regime and does not apply ex ante regulation as in the EU. Therefore, the explanation regarding Switzerland in appendix B of Document "FCC 04-247" (Page B-6) does not correctly reflect the current situation in Switzerland.

According to the Swiss Telecoms Act, carriers who wish to have interconnection contracts have to negotiate for a 3 month period on a bilateral basis. If no consensus is reached amongst the involved parties, a complaint can be filed before the Swiss Federal Communications Commission (ComCom). It is then the duty of the Swiss Federal Office for Communications (OFCOM) to instruct the case on behalf of ComCom and to propose a dispute settlement arrangement including cost oriented interconnection tariffs for a final decision of ComCom. This regulation can therefore be described as an ex post regulation.

When an interconnection case has been put forward to ComCom, the question of existing market dominance has to be evaluated by the Swiss Competition Commission (ComCo). If an operator - with whom interconnection is requested - is then declared dominant based on the findings of ComCo, this dominant operator has to deliver interconnection following the principles of transparency, cost orientation and non discrimination. Cost orientation in this context means LRIC-Prices. ComCom (instructed by OFCOM) defines the applicable LRIC-price of the requested interconnection in the course of the dispute settlement procedure. The appealing body regarding decisions of ComCom is the Swiss Federal Court.

- 6) Mobile termination rates at a wholesale level fall under the interconnection regulation (see para 5). Up to now, no legally binding complaint regarding mobile termination interconnection has been maintained by a telecom operator. Therefore, there are no cases regarding mobile termination (interconnection) pending before ComCom.

In the context of a possible abuse of market power of mobile operators and based on the Swiss Law on cartels, the Swiss Competition Commission currently undertakes an investigation into mobile termination (see <http://www.weko.admin.ch/publikationen/00188/Jahresbericht-E.pdf?lang=en> page 10). The Competition Commission is expected to publish its findings on the mobile wholesale market's situation in Spring 2005.

- 7) If an operator requests mobile termination (interconnection) with a mobile operator in Switzerland and files a complaint before ComCom, the procedure will be as described in para 5).
- 8) Due to legal constraints, OFCOM is not in the position to announce any premature expectations or opinions in cases where OFCOM would be in the role of instructing ComCom regarding a legally binding decision on mobile termination rates.
- 9) Rate #1: please see para 3).
- 10) Rate #2: this information is not in our possession.
- 11) Rate #3: this information is not in our possession.
- 12) Data is available only for Rate#1
- 13) Yes for Rate#1
- 14) This data is not in our possession.
- 15) Data from a private source is available on
<http://www.swisscom.com/ws/index.htm?languageId=en>

End of the document.